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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,705	05/02/2001	Christopher F. Weight	MS1-907US	7940
22801	7590	11/24/2004	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			BASHORE, WILLIAM L	
			ART UNIT	PAPER NUMBER
			2176	

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/848,705

Applicant(s)

WEIGHT, CHRISTOPHER F.

Examiner

William L. Bashore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: amendment filed 9/16/2004, to the original application filed 5/2/2001.
2. The rejection of claims 11, 19, 24 under 35 U.S.C. 101 as being directed towards statutory subject matter, has been withdrawn by the examiner.
3. Claims 1-10, 12-18, 20-23 remain rejected under 35 U.S.C. 101 as being directed towards statutory subject matter.
4. Claims 1-38 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Fields and Bernardo.
5. Claims 1-38 are pending. Claims 1, 12, 20, 25, 31, 34 are independent claims.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. The claimed invention (as claimed in claims 1-10, 12-18, 20-23) is directed to non-statutory subject matter.

In regard to independent claims 1, 12, 20, the combined limitations in each of said claims (i.e. retrieving content, verifying format, scheduling, etc.) can be interpreted as a series of mental and/or manual steps, since the combined limitations can be substantially implemented via mental observation and pen/paper, therefore, said claims are directed toward non-statutory subject matter.

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The examiner's suggestion of changing the preamble to "*A computer executable method comprising:*" in each of said claims will serve to overcome this rejection.

In regard to dependent claims 2-10, 13-18, 21-23, claims 2-10, 13-18, 21-23 are rejected for fully incorporating the deficiencies of their respective base claims.

Examiner's Note

The following rejections are based on a possible interpretation of the instant claims as directed towards computer executable methods.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fields et al. (hereinafter Fields), U.S. Patent No. 6,128,655 issued October 2000, in view of Bernardo et al. (hereinafter Bernardo), U.S. Patent No. 6,247,032 issued June 2001.

In regard to independent claim 1, Fields teaches a host Website accepting (retrieving) new content from a plurality of Web content provider locations, the content retrieved intended to be ultimately reformatted as necessary and displayed on a Web page (Fields column 2 lines 36-51; compare with claim

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1 *“A method comprising: retrieving content from a plurality of content providers, wherein the retrieved content is to be displayed in at least one Web page;”*)

Fields teaches a host enacting a “filter policy” (i.e. a schema file) for a particular Web content provider’s submission format for parsing specific content (i.e. validating licensing, accepting specific ads, etc.) (Fields column 10 lines 23-37), therefore the retrieved format of the content is verified (compare with claim 1 *“verifying the format of the retrieved content”*).

Fields teaches rejecting content if content portions do not match the specific policy for a provider’s content format (i.e. if said police dictates a publishers ads are not to be passed through, said ad content is deemed invalid, and is rejected, or at the very least, the ad is edited out of the content) see Fields column 10 lines 27-32; compare with claim 1 *“rejecting particular content if the particular content format is not valid:”*).

Fields teaches if a host Web site deems content is valid via adherence to its specific policy, said content is reformatted and displayed in a Web site accordingly (Fields column 8 lines 45-55; compare with claim 1 *“scheduling the particular content...displayed by a Web server.”*). Fields does not specifically teach scheduling publishing at a specified time. However, Bernardo teaches a Web site page content approval process, whereby said pages are sent to a designated user for approval pending publication, said approval subject to time limits (i.e. a timeslice comprising a beginning and end times) (Bernardo Abstract, column 10 lines 54-58, column 11 lines 1-5; compare with claim 1 *“scheduling”*, and *“at a specified time”*). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the specific time intervals pending publication of content to Fields, providing Fields the benefit of time scheduling for publishing contents, so as to make sure all required approval checks are made.

In regard to dependent claim 2, Fields does not specifically teach a test page, then a live Web page. However, Bernardo teaches an approval process, whereby a user approves content (offline). When said content is approved, then it is ultimately published (Bernardo Figure 3 items 20, 22, 30, 24). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Bernardo to Fields, providing Fields the benefit of offline testing, so as to flag objectionable and/or invalid content.

In regard to dependent claims 3, 4, Fields teaches automatically updating content on a Web page, which involves replacing (deleting the old content) with new content (Fields column 2 lines 52-54).

In regard to dependent claims 5, 6, 7, 8, Fields teaches XML (Fields column 7 lines 57-62, column 12 lines 4-9).

Fields does not specifically teach a database for storing content. However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, because Fields teaches a filter database (Fields column 7 lines 55-65) which suggests a database for storing content data along with data used in the content analysis, providing the benefit of an orderly arrangement of searchable content.

Claim 7 incorporates substantially similar subject matter as claimed in claim 1, and is rejected along the same rationale.

In regard to dependent claims 9, 10, 11, Fields teaches a schema and definition file in the form of a filter and filter database (Fields column 7 lines 55-65). Fields also teaches a hard drive (Fields Figure 7 item 726).

In regard to independent claim 12, claim 12 incorporates substantially similar subject matter as claimed in claim 1, and in further view of the following, is rejected along the same rationale.

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Fields does not specifically teach a database for storing content. However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, because Fields teaches a filter database (Fields column 7 lines 55-65) which suggests a database for storing content data along with data used in the content analysis, providing the benefit of an orderly arrangement of searchable content.

In regard to dependent claims 13, 14, 15, claims 13, 14, 15 incorporate substantially similar subject matter as claimed in claims 8, and 1, and are rejected along the same rationale.

In regard to dependent claims 16, 17, 18, 19, claims 16, 17, 18, 19 incorporate substantially similar subject matter as claimed in claims 1, 3, 7, 11, respectively, and are rejected along the same rationale.

In regard to independent claim 20, claim 20 incorporates substantially similar subject matter as claimed in claim 1, and in further view of the following, is rejected along the same rationale.

Fields does not specifically teach a database for storing content. However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, because Fields teaches a filter database (Fields column 7 lines 55-65) which suggests a database for storing content data along with data used in the content analysis, providing the benefit of an orderly arrangement of searchable content.

In regard to dependent claims 21, 22, 23, 24, claims 21, 22, 23, 24 incorporate substantially similar subject matter as claimed in claims 1, 1, 1, 11, respectively, and are rejected along the same rationale.

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In regard to independent claim 25, claim 25 reflects the apparatus comprising computer executable instructions used in performing the methods as claimed in claim 1, and is rejected along the same rationale.

In regard to dependent claim 26, Field teaches reformatting (re-editing) retrieved content (Fields column 8 lines 45-50).

In regard to dependent claims 27, 28, 30, claims 27, 28, 30 reflect the apparatus comprising computer executable instructions used in performing the methods as claimed in claims 2, 1, 8 respectively, and are rejected along the same rationale.

In regard to dependent claim 29, Fields does not specifically teach a database for storing content. However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, because Fields teaches a filter database (Fields column 7 lines 55-65) which suggests a database for storing content data along with data used in the content analysis, providing the benefit of an orderly arrangement of searchable content.

In regard to independent claim 31, claim 31 reflects the system comprising computer executable instructions used in performing the methods as claimed in claim 1, and in further view of the following, is rejected along the same rationale.

Fields teaches XML (Fields column 7 lines 57-62, column 12 lines 4-9).

Fields does not specifically teach a database for storing content. However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, because Fields teaches a

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filter database (Fields column 7 lines 55-65) which suggests a database for storing content data along with data used in the content analysis, providing the benefit of an orderly arrangement of searchable content.

In regard to dependent claims 32, 33, claims 32, 33 reflect the system comprising computer executable instructions used in performing the methods as claimed in claim 1, and is rejected along the same rationale.

In regard to independent claim 34, claim 34 reflects the computer program product comprising computer executable instructions used in performing the methods as claimed in claim 1, and is rejected along the same rationale.

In regard to dependent claims 35, 36, 37, 38, claims 35, 36, 37, 38 reflect the computer program product comprising computer executable instructions used in performing the methods as claimed in claims 8, 6, 1, 1 respectively, and are rejected along the same rationale.

Response to Arguments

10. Applicant's arguments filed 9/16/2004 have been fully and carefully considered but they are not persuasive.

Applicant's arguments on pages 13-20 are directed towards an alleged improper rejection of the pending claims under 35 U.S.C. 101. The examiner respectfully maintains his position that said claims can be interpreted as a series of mental and/or manual steps. No evidence of a computer is claimed, retrieving content, verifying/rejecting formats, scheduling for display at a specific time can be implemented by a person. A database can be a file cabinet, and a Web page can be a printed page.

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It is noted that dependent claims 11, 19, and 24 each claim a computer readable memory containing a computer program that is executable etc., which the examiner interprets as evidence claims in support of the instant 101 rejections, since said claims mean that their respective base claims (claim 1, 11, 20) do not involve execution on a computer. For this reason, the rejection of claims 11, 19 and 24 under 35 U.S.C. 101 has been withdrawn.

Applicant argues on pages 23-24 of the amendment that the cited references do not teach “*verifying the format of the retrieved content*”, and “*rejecting particular content if the particular content format is not valid*” (see Applicant’s representative claim 1). It is respectfully submitted that Applicant is reading the specification into the claimed limitations, especially in regard to “*verifying the format*”. Even if one were to interpret adherence to a format to mean adherence to an HTML standard or layout (i.e. HTML 3.2, etc.), the claimed invention does not limit the scope of the term “format” to this specific definition. Fields teaches a hosting Web site which selectively changes Web site content (submitted from other providers), so as to force compliance with a set of filters and policies pursuant to an agreement made between the host and provider (see Fields column 6 lines 53-67 to column 7 lines 1-15). When a host initially receives a Web page, said page is analyzed to verify if the format (as defined by the account agreement) is valid for publication. If the page is not valid (i.e. rejected), the host applies filters from the provider account, said filters changing the page accordingly (i.e. adding advertisements, checking licensing, deleting certain content, etc.), until said page is deemed valid for publication.

It is respectfully noted that Fields teaches XML and DTDs embedded within target Web content (see Fields column 12 lines 30-43), which can also be interpreted as a form of “format”.

Applicant additionally argues on page 25 of the amendment that the cited references do not teach “displaying” the particular content “at the specified time.”, and being displayed “by a Web server”. Applicant also alleges that Bernardo is not scheduling anything for display. It is respectfully submitted that both Fields and Bernardo deal with Web page content approval. The eventual result of both Fields

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and Bernardo is to only publish (i.e. display) valid or approved Web site content submissions. It is well established that Publishing Web pages on a site (i.e. Web publishing) means at least making available on the Internet for display and perusal on computer screens. Fields does not specifically teach scheduling at a specified time for publication. However, Bernardo teaches a Web site page content approval process, whereby said pages are sent to a designated user for approval pending publication, said approval subject to time limits. Bernardo teaches specifying “approval intervals” (a time limit to make an approval decision – see Bernardo column 10 lines 54-57, column 11 lines 1-5). Once approval is made, the content is published, therefore (assuming approval is granted), the approved page is published at a specific time (at substantially the time at which approval is granted).

Applicant argues on pages 26-27 of the amendment that the cited references fail to teach a “database for storing content” or determining whether each of the plurality of content providers has any new content to retrieve. The examiner notes that Fields teaches a “filter database” for storing filter related content. Since the skilled artisan is cognizant of what a database is, along with its uses and advantages, Fields’s filter database provides at least a reasonable suggestion to the skilled artisan that a database can be applied not only to Web page filter content, but to other content as well (i.e. the Web page content itself), providing the benefit of a highly efficient orderly arrangement of searchable data. In addition, Fields teaches a host accepting content submissions from a provider. If the host doesn’t receive a submission, it generally means nothing new has been submitted.

Applicant argues on page 27 of the amendment that the cited references do not teach the claimed limitations of instant claim 20. It is noted that, in addition to the above, since Web sites are known by network addresses, the submitted (retrieved) content can originate from provider storage locations. Since an account agreement is made between the host and said provider, the host would be generally aware of the provider’s Web address for communication and possible file transfer.

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Regarding Applicant's arguments on page 28 of the amendment directed to XML, Fields teaches XML and DTDs embedded within target Web content (see Fields column 12 lines 30-43).

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Bashore whose telephone number is (571) 272-4088. The examiner can normally be reached on 11:30am - 8:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William L. Bashore
Patent Examiner, AU 2176
November 22, 2004